

February 15, 2011

**CASES**

2	No. 17	Order, insofar as appealed from, reversed, with costs, petition dismissed and certified question answered in the negative. Opinion by Judge Read. Chief Judge Lippman and Judges Ciparick, Graffeo, Smith, Pigott and Jones concur.
In the Matter of Frances Balzarini, as Administrator of the Estate of John Balzarini, Deceased,		
Respondent,		
v.		
Suffolk County Department of Social Services et al.,		
Appellants.		
1	No. 14	Order affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.
The People &c.,		
Respondent,		
v.		
William Campbell,		
Appellant.		
3	No. 1	Order affirmed, with costs, and certified question answered in the negative. Opinion by Judge Ciparick. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Jones concur.
Kristi Foote et al.,		
Respondents,		
v.		
Albany Medical Center Hospital, et al.,		
Appellants,		
Khristeena Kingsley,		
Defendant.		
1	No. 3	Order affirmed. Opinion by Judge Pigott. Judges Graffeo, Read and Smith concur. Chief Judge Lippman dissents and votes to reverse in an opinion in which Judges Ciparick and Jones concur.
The People &c.,		
Respondent,		
v.		
Steven Mason,		
Appellant.		

1                    No. 2  
The People &c.,  
                    Respondent,  
                    v.  
Reginald Rabb,  
                    Appellant.

Order affirmed.  
Opinion by Judge Pigott.  
Judges Graffeo, Read and Smith concur.  
Chief Judge Lippman dissents and votes  
to reverse in an opinion in which  
Judges Ciparick and Jones concur.

1                    No. 4  
Gretchen Rivera, & c., et al.,  
                    Appellants,  
                    v.  
Paul G. Kleinman, M.D., et al.,  
                    Respondents.

Order affirmed, with costs, in a  
memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

4                    No. 20  
Virgil Smith, &c.,  
                    Respondent,  
                    v.  
Hazel E. Sherwood, et al.,  
                    Defendants,  
Central New York Regional  
Transporation Authority, Also  
Known as Centro, Inc., and  
Theodore R. Gray,  
                    Appellants.

Order, insofar as appealed from,  
reversed, with costs, the common-law  
negligence claim against defendants  
Central New York Regional  
Transportation Authority and Theodore  
R. Gray dismissed and certified  
question answered in the negative.  
Opinion by Judge Graffeo.  
Chief Judge Lippman and Judges  
Ciparick, Read, Smith, Pigott and Jones  
concur.

**MOTIONS**

3                   SSD 5  
In the Matter of Anonymous, An  
Applicant for Admission to the  
Bar,  
                          Appellant.

Appeal dismissed without costs, by the  
Court sua sponte, upon the ground that  
the order appealed from does not  
finally determine the proceeding  
within the meaning of the  
Constitution.

3                   Mo. No. 2011-35  
In the Matter of Serena Backus,  
                          Respondent,  
                          v.  
Donald Clupper,  
                          Appellant.

Motion for leave to appeal denied.

1                   Mo. No. 2010-1278  
Kelly Anne Breen-Burns,  
                          Appellant,  
                          v.  
Scarsdale Woods Homeowners'  
Association Inc., et al.,  
                          Respondents.

Motion for leave to appeal denied with  
one hundred dollars costs and  
necessary reproduction disbursements.

2                   Mo. No. 2010-1346  
Mario Castellanos,  
                          Appellant,  
                          v.  
United Cerebral Palsy Association  
of Greater Suffolk, Inc.,  
                          Respondent.

Motion for leave to appeal denied with  
one hundred dollars costs and  
necessary reproduction disbursements.

2                   Mo. No. 2010-1306  
Andrew M. Cuomo, &c., et al.,  
                          Respondents,  
                          v.  
Osmin Ferran, Jr., et al.,  
                          Defendants,  
Lewis Brestin, et al.,  
                          Appellants.

Motion for leave to appeal dismissed  
upon the ground that the order sought  
to be appealed from does not finally  
determine the action within the  
meaning of the Constitution.

3 Mo. No. 2010-1363  
In the Matter of John Dalton,  
Appellant,  
v.  
Andrea Evans, &c.,  
Respondent.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution. Motion for poor person relief dismissed as academic.

3 SSD 4  
In the Matter of Victor Altheus DePonceau,  
Appellant,  
v.  
Brian Fischer, as Commissioner of Correctional Services,  
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution.

4 Mo. No. 2010-1247  
Glacial Aggregates LLC,  
Respondent,  
v.  
Town of Yorkshire,  
Appellant.

Motion to vacate the Court's October 22, 2010 dismissal order granted. On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.

4 Mo. No. 2010-1318  
In the Matter of Mikia H. et al.  
Erie County Department of Social Services,  
Respondent;  
Monique K.,  
Appellant.

Motion, insofar as it seeks leave to appeal from the Appellate Division order that affirmed the Family Court order denying a motion to vacate, dismissed upon the ground that the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

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In the Matter of Noreon K.  
Erie County Department of Social Services,  
Respondent;  
Monique K.,  
Appellant.

4                    Mo. No. 2010-1386  
James B. Hansen et al.,  
                          Appellants,  
                          v.  
Carousel Center Company, L.P.  
et al.,  
                          Respondents.  
(And a Third-Party Action.)

Motion for leave to appeal denied with  
one hundred dollars costs and  
necessary reproduction disbursements.  
Judge Pigott took no part.

3                    Mo. No. 2011-20  
In the Matter of Gabriella I.,  
&c.  
  
Broome County Department of  
Social Services,  
                          Respondent;  
Jessica J.,  
                          Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2011-10  
Johnathan Johnson,  
                          Appellant,  
                          v.  
State of New York,  
                          Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief  
dismissed as academic.

2                    Mo. No. 2010-1271  
In the Matter of Thomas J.  
McDougall,  
                          Respondent,  
                          v.  
Nicholas Scoppetta, &c., et al.,  
                          Appellants.

Motion for leave to appeal granted.

4                    Mo. No. 2010-1320  
In the Matter of Joshua C. Moore,  
                          Respondent,  
                          v.  
Desiree Moore,  
                          Appellant.

Motion for leave to appeal denied.

2                   Mo. No. 2010-1155  
In the Matter of the Foreclosure  
of Tax Liens &c. by Orange County  
Commissioner of Finance,  
                  Appellant;  
Jeanette Helseth, et al.,  
                  Respondents.

Motion for leave to appeal granted.

3                   Mo. No. 2011-56  
In the Matter of Lester A.  
Peters,  
                  Appellant.  
Janus Elevator Products,  
                  Respondent.  
Commissioner of Labor,  
                  Respondent.

Motion for reargument of motion for  
leave to appeal denied.

1                   Mo. No. 2010-1285  
S.M. Pires,  
                  Appellant,  
                  v.  
Frota Oceanica Brasileira, S.A.,  
                  Respondent,  
et al.,  
                  Defendants.

Motion for leave to appeal dismissed  
upon the ground that the order sought  
to be appealed from does not finally  
determine the action within the  
meaning of the Constitution.

1                   Mo. No. 2011-6  
S.M. Pires,  
                  Appellant,  
                  v.  
Frota Oceanica Brasileira, S.A.,  
                  Respondent,  
et al.,  
                  Defendants.

Motion, insofar as it seeks leave to  
appeal from that portion of the  
Appellate Division order as pertains  
to the motion in that court for the  
imposition of sanctions, denied;  
motion for leave to appeal otherwise  
dismissed upon the ground that the  
remaining portions of the order do not  
finally determine the action within  
the meaning of the Constitution.  
Motion for a stay dismissed as  
academic.

2                    Mo. No. 2010-1324  
James Rector,  
                          Appellant,  
                  v.  
City of New York et al.,  
                          Respondents.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed so much of Supreme Court's order as denied appellant's motion to amend the complaint, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

3                    Mo. No. 2010-1309  
In the Matter of Regeneron  
Pharmaceuticals, Inc.,  
                          Respondent,  
                  v.  
Susan McCarthy, &c., et al.,  
                          Appellants,  
et al.,  
                          Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

4                    Mo. No. 2010-1327  
The People &c.,  
                          Respondent,  
                  v.  
Nicholas Sawyer,  
                          Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2010-1284  
In the Matter of John J.  
Schroeder,  
                          Respondent,  
                  v.  
Nicholas Scoppetta, &c., et al.,  
                          Appellants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

2                    Mo. No. 2010-1311  
Luis Segura,  
                          Appellant,  
                          v.  
City of New York,  
                          Respondent.

Motion for leave to appeal denied with  
one hundred dollars costs and  
necessary reproduction disbursements.

3                    Mo. No. 2010-1288  
Christine M. Stuto,  
                          Appellant,  
                          v.  
Gregory G. Kerber et al.,  
                          Defendants,  
William J. McNeary III et al.,  
                          Respondents.

Motion for leave to appeal granted.

3                    Mo. No. 2010-1366  
In the Matter of Injah Tafari,  
                          Appellant,  
                          v.  
Brian Fischer, &c.,  
                          Respondent.  
Appellate Division No. 509438

Motion for leave to appeal denied.

3                    Mo. No. 2010-1335  
In the Matter of Injah Tafari,  
                          Appellant,  
                          v.  
Donald Selsky, &c.,  
                          Respondent.  
Appellate Division No. 502211

Motion for leave to appeal dismissed  
as untimely (see CPLR 5513[b]).

3                    Mo. No. 2010-1337  
In the Matter of Injah Tafari,  
                          Appellant,  
                          v.  
Donald Selsky, &c.,  
                          Respondent.  
Appellate Division No. 503027

Motion for leave to appeal denied.

4                    Mo. No. 2010-1334  
In the Matter of Elizabeth W.  
et al.

Motion for leave to appeal denied.

Erie County Department of Social  
Services,

Respondent;

Theresa W. et al.,

Appellants.